

REMARKS

Claims 1-7, 11-15, 17-25, 36 and 43-47, as amended, and new claim 52 remain in the present application for the Examiner's review and consideration. Claims 30-34 and 48-51, which are directed to non-elected inventions II-IV, have been canceled without prejudice. Claim 35 has been canceled in view of the objection under 35 C.F.R. § 1.75 as being a substantial duplicate of claim 2, and claims 8-10, 16, 26-29 and 37-42 have been withdrawn as being directed to non-elected species. Claim 1 has been amended, as discussed in detail below. Claim 36 has been amended to correct a dependency necessitated by the cancellation of claim 35. New claim 52 has been added to better define the invention. Support for new claim 52 can be found in claim 1, as originally filed. As these amendments do not introduce any new matter into the present application, their entry at this time is warranted.

The courtesy extended by the Examiner to the Applicants and their attorney at the Interview on 11 April 2006 is greatly appreciated.

Claims 1 - 4, 11, 17 - 25, 29, 35, and 43 were rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being obvious over U.S. patent no. 4,876,128 to Zafiroglu ("the '128 patent") for the reasons given on pages 3-5 of the Office Action.

The Examiner asserted that the '128 patent discloses a stitchbonded fabric having good laundering durability formed from a bonded fibrous layer which is stitchbonded with an elastic thread (Abstract). The fibrous layer was said to be a bonded nonwoven fabric having a basis weight between 25 and 150 g/m² formed from a carded and cross-lapped nonwoven fabric (column 3, lines 1 - 5). The Examiner believed that the fabric has a specific volume of at least 16 cm³/g, and preferably about 20 to 25 cm³/g, (which correspond to a density of 0.0625 g/cm³ and preferably about 0.05 to 0.04 g/cm³) (column 2, lines 25 - 28).

The Examiner also stated that '128 patent teaches a blended nonwoven comprising a mixture of 25% by weight of binder material blended into the nonwoven and that this would produce a sufficient amount of binder at the surface of the fabric. Regarding the recitation that the fabric "is stitch-bonded with yarns arranged in a stitch pattern that allows the stitch-bonded fabric to be stretched in at least one direction by a factor of about 2.5 or more ~~to about 5.0~~ without forming local ruptures therein", the Examiner interpreted this recitation as requiring a stitch pattern which would allow the fabric to stretch, regardless of whether or not the fabric can be stretched to that degree. The Examiner then states that '128 patent discloses that the stitching thread is stitched in various open patterns including zigzag tricot stitching or chain stitching (column 4, lines 16 - 30) and that elastic yarns or conventional stretch yarns

are used as the stitching yarn (column 3, lines 40-55) and that stretchability of the stitch pattern were presumed to be *inherent* to the stitching pattern disclosed by the '128 patent.

The present invention as claimed in amended claim 1 is patentably different than the disclosure of the '128 patent in significant ways.

First, the present invention allows the finished stitch-bonded fabric to stretch at least "2.5 times" beyond its "as-stitched dimensions," while the '128 patent allows stretching only from about 1.08 times (or 8%) to about 1.75 times (or 75%) in the machine direction and much less in the transverse direction (see col. 6, lines 32-36 and Table 1 on col. 7) with no indication of how much that stretching can be beyond the as-stitched dimensions, if any. The claimed amount of stretch is higher than the amount of stretch taught in the '128 patent, and the type of claimed stretch, i.e., beyond the as-stitched dimensions, is different from the type of stretch taught, i.e., beyond the relaxed and shrunk dimensions.

Next, the starting web recited in amended claim 1 is a "non-woven, substantially unpacked substrate." Support for this change can be found on page 6, lines 4-12 of the present specification, where the inventors explain that the packing of the fibers in the substrate should be minimized, so that these webs are stretchable. Fiber packing describes a condition where the individual fibers have excessive contacts with each other. The limitation "substantially unpacked" is defined by the claimed ranges of basis weight and density. In contrast, the '128 patent describes a starting material that has been thermally bonded under high temperature to produce a thin web. While the Examiner is correct that the specific weight of the starting material in the '128 patent is similar to the starting weight claimed in claim 1, Applicants submit that specific weight is only a single factor and the density of the web is also important. Examples 1-3 and 4-6 of the '128 patent clearly illustrate this point. The starting web in these examples has a specific weight of 102 g/m² and a thickness of 0.059 cm. This translates to a density of 0.173 g/cm³, which is higher than the claimed density range in claim 1. Importantly, this web was thermally bonded at 100 psi and 150°C to form a very thin web of only 0.059 cm thick. For comparison, the '128 patent reports that the same web has a thickness of 0.57 cm (or 10 times thicker) when it is not thermally bonded (col. 6, lines 17-25). Applicants submit that thermally bonded starting web in the '128 patent is packed and is not a "substantially unpacked substrate" as claimed, and the density of this thin, packed starting web is well outside the claimed density range.

Moreover, when not thermally bonded, the starting web in the '128 patent has a density of 0.0179 g/cm³, which is lower than the claimed range. Importantly, when samples of this unbonded starting web were stitched to form Comparison Examples A-C (col. 6, lines

22-26), the stitch-bonded fabric yielded significantly less stretch than the thermally bonded, packed starting web (see Table I), i.e., from 0%-22% in either direction. This result clearly does not anticipate claim 1, but also teaches away from the claimed stretch in claim 1, thereby making claim 1 non-obvious and non-inherent. Hence, the starting web in amended claim 1 and the two starting webs in the '128 patent are different.

On page 3 of the Office Action, the Examiner believed that the density of the fabric in the '128 patent (col. 2, lines 25-28) to be about 0.4 [sic, 0.04] to 0.5 [sic, 0.05] g/cm³ (based on specific volumes of at least 16 cm³/g, preferably about 20 to 25 cm³/g). Applicants respectfully direct the Examiner's attention to the cited portion, where the '128 patent clearly states that this specific weight, which can be inverted to obtain density, is the measurement of the stitch-bonded product, i.e., starting web + stitched yarns + release of tension + shrinkage (see also column 4, lines 30-35). Hence, the density range cited by the Examiner is not the density of the starting web recited in claim 1.

Applicants submit that as amended claim 1 is novel, non-inherent and un-obvious from the '128 patent.

Applicants note that claims 2-4, 11 and 17-25 depend either directly or indirectly from claim 1 and contain additional recitations that further define the present invention over the '128 patent. Hence these claims are also currently patentable due to their dependency, and Applicants believe that it is unnecessary to address these specific grounds of rejection of the dependent claims at this time. However, Applicants reserve the right to address these rejections should that become necessary. In addition, claims 29 and 43 have been withdrawn from consideration with the present application and claim 35 has been canceled, rendering their rejections moot at this time.

Claims 5 - 7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the '128 patent in view of U.S. patent no. 5,187,952 to Zafiroglu ("the '952 patent") for the reasons given on page 6 of the Office Action. Claims 5-7 depend from claim 1, and the disclosure of the '952 patent fails to correct the deficiencies of the '128 patent. Hence, claims 5-7 are presently patentable, and Applicants reserve the right to further support the patentability of claims 5-7, should that becomes necessary.

Claims 12 - 15, 36, and 44 - 46 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the '128 patent in view of U.S. patent no. 6,423,393 to Wildeman for the reasons stated on 6-7 of the Office Action. Claims 12 - 15, 36, and 44 - 46 depend either directly or indirectly from claim 1, and the disclosure of the Wildeman fails to correct the

deficiencies of the '128 patent. Hence, these claims are presently patentable, and Applicants reserve the right to further support their patentability, should that becomes necessary.

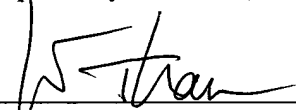
Claim 36 is rejected under 35 U.S.C. § 103(a) as being unpatentable over the '128 patent for the reasons given on page 7 of the Office Action. Claim 36 depends from claim 1, and is presently patentable due to its dependency. Applicants reserve the right to further support its patentability, should that becomes necessary.

Applicants assert that all claims are now in condition for allowance, early notice of which is respectfully requested. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

A petition for two-month extension of time is attached herewith. No other fees are believed due in connection with the submission of this Amendment. If any fee is due, the Commissioner may charge appropriate fees to H.T. Than Law Group, Deposit Account No. 50-1980.

Respectfully submitted,

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